

APPENDIX III

Bibliography of Recent Writing on Public Record Privacy Issues

This list is presented in two parts. The first part includes articles that address the particular issue of privacy and access to public records, including court case files. The second part includes more general writings on privacy and the Internet. The lists are not intended to be exhaustive, but rather to provide an introduction to the growing literature on these issues.

Access to Public Records

Lillian R. Bevier, "Information About Individuals in the Hands of Government: Some Reflections on Mechanisms for Privacy Protection," 4 *William & Mary Bill of Rights J.* 455 (1995).

William Bodoh and Michelle Morgan, "Protective Orders in the Bankruptcy Court: The Congressional Mandate of Bankruptcy Code Section 107 and its Constitutional Implications," 24 *Hastings Const. L.Q.* 67 (1996).

Louis Hubener, "Rights of Privacy in Open Courts: Do They Exist?" 2 *Emerging Issues in State Const. L.* 189 (1989).

Helen Nissenbaum, "Protecting Privacy in an Information Age: The Problem of Privacy in Public," 17 *Law and Philosophy* 559 (1998).

Mary Jo Obee and William C. Plouffe, "Privacy in the Federal Bankruptcy Courts," 14 *Notre Dame Journal of Law, Ethics & Public Policy* 1011 (2000).

"Should You Be Able to Access Bankruptcy Files from the Internet?" *Bankruptcy Court Decisions* (Aug. 4, 1998); and "Why the Public Should (and Should Not) Have Full Access to Bankruptcy Records on the Internet," *Bankruptcy Court Decisions* (July 4, 2000).

The Administrative Office of the United States Courts has developed two helpful staff papers. The first reviews policy and legal issues relating to electronic case files: "Electronic Case Files In The Federal Courts: A Preliminary Examination of Goals, Issues, and the Road Ahead," available on the courts' website at <http://www.uscourts.gov/casefiles/ecfmar97.pdf> The second paper is a summary analysis of public access and privacy issues related to electronic case files: "Privacy and Access to Electronic Case Files in the Federal Courts," available at <http://www.uscourts.gov/privacyn.htm>

General Literature on Privacy

Samuel Warren & Louis Brandeis, "The Right to Privacy," 4 *Harv. L. Rev.* 193 (1890).

Mark E. Budnitz, "Consumer Privacy in Electronic Commerce: As the Millennium Approached, Minnesota Attacked, Regulators Refrained, and Congress Compromised," 14 *Notre Dame Journal of Law, Ethics & Public Policy* 821 (2000).

Esther Dyson, *Release 2.0: A Design for Living in the Digital Age* (see especially the chapter entitled "Privacy") (1998).

Jerry Kang, "Information Privacy in Cyberspace Transactions," 50 *Stanford L. Rev.* 1193 (1998).

Lawrence Lessig, "The Law of the Horse: What Cyberlaw Might Teach," 113 *Harv. L. Rev.* 501 (1999).

Marc Rotenberg, "What Larry Doesn't Get: Fair Information Practices and the Architecture of Privacy," *Stanford Technology Law Review Working Papers*, http://stlr.stanford.edu/STLR/Working_Papers/index.htm (Feb. 2000).

Kent Walker, "Where Everybody Knows Your Name: Balancing Community, Commerce, and Freedom in Information Exchange," *Stanford Technology Law Review Working Papers*, http://stlr.stanford.edu/STLR/Working_Papers/index.htm, (Feb. 2000).